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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/836,369	04/18/2001	Yuichi Hashimoto	35.G2780	6891

5514 7590 07/15/2004

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EXAMINER

CLEVELAND, MICHAEL B

ART UNIT	PAPER NUMBER
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1762

DATE MAILED: 07/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action	Application No. 09/836,369	Applicant(s) HASHIMOTO ET AL.	
	Examiner Michael Cleveland	Art Unit 1762	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 25 June 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 5 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☒ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See attached.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See attached.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1, 3, 5, 9-13.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

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DETAILED ACTION

1. The proposed After Final amendment will not be entered because it raises new issues for further search and consideration, such as whether the limitation “consisting essentially of” is supported by the originally filed disclosure and whether the limitation is taught or suggested by the prior art.

Response to Arguments

2. Applicant's arguments filed 6/25/04 have been fully considered but they are not persuasive.

Applicant's argues that unexpected results between 10 V and 0V are shown by the Examples. The argument is unconvincing because the closest prior art teaches the use of a voltage.

Applicants arguments regarding the amendments to the claims are unconvincing because the proposed amendment has not been entered.

Applicant argues that Yamazaki teaches at col. 18, lines 60-65 teaches away from the range 10-100 V because it teaches the use of 5V or less. The argument is unconvincing because the cited passage explicitly teaches “10 V or less”.

Applicant argues that the Examiner's statement that is would have been obvious to have optimized the voltages is a “bald unsupported conclusion.” The argument is incorrect because the Examiner's conclusion is based upon the scientific principles that are well understood within the art and was supported by the following explanation quoted from the prior Office Action,

“'834 is silent as to the voltage to be applied to the electrode during deposition. However, col. 5, lines 9-32 describe that the operation of the invention occurs because the banks (105b) on the substrate where deposition is not desired are given the same charge as the EL material being deposited, and therefore the banks repel the EL material. Likewise, the chamber walls and the substrate holder may be given the same charge also to repel the material (col. 6, lines 11-32). It is therefore apparent that the EL material is therefore attracted to the oppositely-charged electrodes because opposite charges attract and like charges repel. The degree of attraction or repulsion is controlled by the magnitude of the voltages. Larger voltages would have provided greater degrees of attraction or repulsion, but would have required more energy. Therefore, the positive and negative voltage are result-effective variables because they affect the degrees of attraction and repulsion and the energy cost during deposition. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have optimized the voltages for the best balance of attraction to the electrodes, repulsion from the non-deposition surfaces and cost, particularly in view of the teachings of '834 that the determination of the voltages may be determined by the implementers (col. 5, lines 9-19).”

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It is well settled that the discovery of the optimum value of a result effective variable in a known process is ordinarily within the skill in the art. *In re Boesch and Slaney*, 205 USPQ 215 (CCPA 1980). Therefore, in order to convincingly traverse this ground of rejection, Applicant MUST 1) explicitly state that it would NOT have been obvious to have optimized the voltages of Yamazaki, and 2) explain why the Examiner's determination that the voltage of Yamazaki is result effective is incorrect, citing specific scientific reasons or evidence to contradict the Examiner's analysis.

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Cleveland whose telephone number is (571) 272-1418. The examiner can normally be reached on Tuesday-Friday and alternate Mon, 8-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Shrive Beck can be reached on (571) 272-1415. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Michael Cleveland
Patent Examiner
July 14, 2004